IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 938 OF 2005

Rajesh Sukhram Pasi ..Petitioner

versus

State of Maharashtra & Ors. ..Respondents

Shri P. A. Pol Advocate for the Petitioner.

Shri Vinay Sonpal AGP for the Respondents No.1, 3 and 4.

CORAM : R.M.S. KHANDEPARKAR &
NARESH H. PATIL, JJ.

DATE : 30TH AUGUST, 2006

P.C. :

1. This Petition relates to challenge an order dated 17.2.2005 whereby licence granted for Fair Price Shop to the Petitioner was stayed. The Petition in that regard was filed in this court on 21.2.2005.

2. Matter for the first time appeared before the leaned Single Judge on 12.4.2005. At that time the following order was passed:

"1. The orders impugned in this petition

> **are passed under the Maharashtra Foodgrains Rationing (Second) Order, 1966 which has been in turn passed U/section 3 of the Essential Commodities Act, 1965. The Essential Commodities Act is not listed in any of the 39 clauses under Rule 18 of Chapter XVII of the Government of Maharashtra (correction slip 22). Hence, this petition does not lie before the Single Bench.**
>
> **2. Office to take appropriate steps."**

3. It appears that the Authorities withdrew the stay granted on 17.2.2005 by their Order dated 25.2.2005 itself. Consequently, there was no cause of action surviving in favour of the Petitioner to keep the present petition pending or to pursue. This fact however was not disclosed to the learned Single Judge on 12.4.2005. Matter thereafter remained pending for admission on account of failure on the part of the petitioner to furnish second paper set as the matter was required to be placed before the Division Bench. The matter was therefore listed for direction on 19.8.2006 before this Bench. At that time the following order was passed:

> **"As last opportunity, to the Petitioner, time is granted till 30th August 2006 to submit 2nd set of the Petition. In case, the petitioner fails to furnish 2nd set on or before 30th August 2006, the petition**

shall stand dismissed for non-prosecution without being referred to this Court.

4. When the matter came up for hearing, the learned Advocate appearing for the Petitioner drew our attention to the Order dated 17.2.2005 and the averments in the petition in paragraph 6. Learned AGP thereafter submitted that the order of 17.2.2005 has in fact been withdrawn long time back. He also produced necessary copy of the Order, for our perusal.

5. The above facts apparently disclose that the Petitioner inspite of knowing well that the order dated 17.2.2005 was withdrawn and consequently he was entitled to enjoy the benefits of the Order dated 16.2.2005 under which he was granted the necessary Fair Price Shop Licence, did not bother either to withdraw the Petition or even to submit the second copy of the Petition. Even though the matter was listed for direction, nobody appeared for the Petitioner nor it was informed to the Court that the Order of 17.2.2005 was already withdrawn. If appropriate steps were taken by the Petitioner prior to 12.4.2005 to inform this Court about the

withdrawal of the Order dated 17.2.2005 much time of the Court, consequently public time would have been saved. The Petitioners are not entitled to maintain the petitions merely for the sake of their pleasure. Nobody is entitled to waste the time of the Court. Considering the same and the conduct of the Petitioner in the matter, Petition is dismissed with costs of Rs.5,000/- (Rupees Five Thousand). The Petitioner to pay costs of Rs.5,000/- within two weeks in the Registry and on payment thereof the same shall be credited to the account of Maharashtra State Legal Service Authority. In case of failure to pay costs within the specified time, the Registry to initiate necessary action against the Petitioner for recovery of the said amount.

(R.M.S. KHANDEPARKAR, J.)

(NARESH H. PATIL, J.)